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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 JOSHUA LEE REDDING,

8 Plaintiff,

9 v.

10 SNOHOMISH COUNTY JAIL, et al.,

11 Defendants.

Case No. 2:18-cv-01536-BJR

**ORDER DENYING PLAINTIFF'S
SECOND MOTION REGARDING
SPOILIATION OF EVIDENCE,
DKT. 41.**

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13 Plaintiff has filed two motions regarding spoliation of evidence: a video of the alleged
14 incident between plaintiff and defendant Griffith. Dkts. 37, 41. The Court denied the first motion
15 on October 7, 2019. Dkt. 39. On October 4, 2019, plaintiff again moved for sanctions for
16 spoliation of the video; he argues he told defendant shortly after the alleged incident he intended
17 to sue and filed Kites about retaining the video. Dkt. 41. As relief, plaintiff request default
18 judgment in his favor be granted under Fed. R. Civ. P. 37(e) and the Court award EAJA fees. *Id.*

19 Defendant opposes arguing plaintiff relies upon caselaw in which evidence was
20 intentionally destroyed and there is no evidence the video was intentionally destroyed in this
21 case. Dkt. 44. Defendant also contends plaintiff mistakenly claims the video is favorable to him
22 because he was “given back” loss of good time in incorrect after jail staff viewed the video. *Id.*
23 Defendant contends plaintiff was not “given back” loss of goodtime, and thus there is no
evidence the video is favorable to plaintiff.

1 The remedy plaintiff requests—default judgment— requires facts establishing defendant
2 Giffith acted with the intent to deprive plaintiff of the use of the video in this lawsuit. *See* Fed.
3 R. Civ. P 37(e)(2). There is no evidence defendant Griffith took any action regarding the video,
4 intentionally destroyed the video, or even had the authority to order the video’s destruction.
5 Defense counsel was not involved in the case until after the video was erased and thus had no
6 role in the loss of the video. The Court accordingly concludes it is inappropriate to sanction
7 defendant or defense counsel as requested and **ORDERS:**

8 (1) The motion for Spoliation and sanctions, Dkt. 41, is **DENIED**.

9 (2) The Clerk shall provide a copy of this Order to plaintiff.

10 DATED this 25th day of October, 2019.

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14 BRIAN A. TSUCHIDA
15 Chief United States Magistrate Judge
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